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## City of Dover, New Hampshire

### OFFICE OF THE CITY MANAGER

November 2, 2015

Newton Tedder  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Mail Code OEP06-4  
Boston, MA 02109-3912

**Re: City of Dover comments on EPA proposed 2015 Draft NH MS4 permit Revisions**

Dear Mr. Tedder:

The City of Dover submits this comment letter to the proposed changes to the EPA NPDES NH General Stormwater Permit. Dover as a member of a Coalition of concerned communities includes by reference the attached set of comments prepared by Sheehan Phinney Bass and Green on behalf of the communities dated November 2, 2015. In addition Dover submits the following additional comments for the record.

Dover has an extensive stormwater system, much of which dates back well before 1940. During the past 15 years the city has devoted significant effort and funds to upgrade and maintain the stormwater system. The MS4 program has raised awareness in the public to build support to make available the resources for better management and performance of the system. As a result there is less flooding during large rain events and water quality exiting the system has improved.

Section 2.1.1.a suggests that any contribution of a pollutant from a stormwater pipe to a water body not meeting water quality standards would be in violation. The permit language does not consider or define a de minimis concentrations from an intermittent discharge, creating an unacceptable and unreasonable burden on Dover and any MS4 community to comply. A low concentration of a pollutant exiting a stormwater pipe that intermittently discharges to an impaired river would not be a cause of not meeting water quality standards, but would be considered to contribute to the exceedance. Every stormwater outfall discharging to an impaired waterbody would require retrofits and still never be in compliance.

Sec 2.1.1.b and c Both subsections include the phrase "(or its tributaries in some cases)" This is a vague description and leaves its application to who's discretion, EPA, NHDES, others?

Sec. 2.1.1.c This section provides an on ramp to include additional portions of the stormwater system to come under additional requirements if water quality standards of receiving streams are found not in compliance for any of the referenced pollutants. The term "water quality limited" is not defined in Appendix A. Appendix A should be updated to include a definition. The definition should clearly define "water quality limited" utilizing the same standards to list a stream as impaired.

Conversely the permit does not provide an off ramp for assessment units that show they are meeting water quality standards through either a future 303(d) delisting or recent water quality data suggesting that water quality standards

are being met. The permit should provide language which allow communities to devote resources where most needed and based on the most current information available. The current permit was issued in 2003 and since then there have been numerous 303(d) lists approved all within the current permit. This is an important issue that needs revision in the proposed permit. Linking the permit requirements to the approved 303(d) list at the time the final permit is issued, 2012 303(d), and remain in effect until the next permit is issued doesn't work or make sense.

Sec. 2.2.1.e This section references Appendix F Table F-1 which lists the bacteria impaired waterbodies by community. The waterbodies listed appear to be from the 2010 approved 303(d) listing. EPA has recently approved the 2012 list and NHDES has issued a draft of the 2014 303(d) list which is based on the most currently available information. The list in Table F-1 in Appendix F should reflect the latest information available for bacteria.

Sec. 2.2.2 References Appendix H. Appendix H Part 1 references "Water Quality Response Plans" which are no longer proposed in the permit and the language should be deleted from Appendix H and all other places in the permit. Perhaps the Stormwater Management Plan would serve as an appropriate substitute.

Attachment 1 to Appendix H prescribes calculations to measure load reductions when a new BMP is installed. The methodology calculating load reductions should be consistent with those being developed in the PTAP process in New Hampshire. Communities that agree to participate in the PTAP program should be exempt from the proposed MS4 reporting requirements to EPA. MS4 reporting would be redundant and potentially produce conflicting results if methodologies aren't consistent. The addition of new language in the proposed MS4 could provide MS4 communities with an exemption from the MS4 reporting as an incentive to participate in PTAP. This comment also applies to Sec. 2.3.6.e; Appendix H Part I. 1.c.iii; and Appendix H Part II. 1.c.iii.

Sec.2.2.2 requires any MS4 listed in Sec 2.2.2.a.i.1 must comply with the requirements in Appendix H Part 1. The requirements apply for the entire MS4 without regard to whether a catchment is discharging to a Nitrogen impaired water body. A community may have only one outfall to a nitrogen impaired waterbody in their entire MS4 system; but will be required to install and track BMPs for nitrogen reduction throughout the entire MS4. Section 2.2.2 should apply only to discharges to the impaired waterbodies.

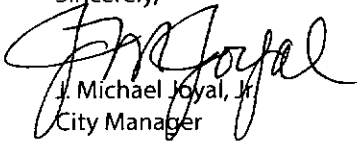
Sec. 2.2.2.d The City of Dover recognizes the chloride issue and appreciates EPA's concern. Dover derives its drinking water from groundwater in glacial outwash deposits which are susceptible to chloride contamination, and agrees that road salt used during winter operations on public roads and private properties are the primary source. The balance between public safety and environmental protection are at odds on the issue but have not been ignored by MS4's. Community winter operations are a significant public works budget item. Managers are keenly aware of salt use from a cost perspective as well. Dover and other communities have implemented automated equipment to uniformly lay down salt which adjusts to vehicle speed, performed equipment calibration, and hold annual training for staff on appropriate use of deicing agents. Dover was one of the first communities in NH to embrace using salt brine as a pre-treatment practice. Pre-wetting salt has been a standard practice for more than a decade in Dover.

Dover believes it makes sense for an MS4 to report salt use on an annual basis from year to year. The proposed tracking requirements in the draft permit are overly burdensome and will not produce any benefit. Each winter season and each winter storm is unique. The natural variability in winter weather from storm to storm, and year to year will make the proposed data reported impossible to make any sense of. Storm intensity varies widely by geography as well. As an example a winter storm in Dover frequently has snow in north Dover, sleet and ice in central Dover and all rain on Dover Point, while the storm may be all snow in Rochester.

Winter operations utilize different techniques based on type of precipitation and pavement temperatures. Sunny days and cold nights create melting in the day followed by refreezing at night requiring salting operations even though there was no storm. Dover suggests that the permit reduce the reporting to a simple annual salt use by weight as a way to judge effectiveness over the long run. Staff training, investment in state of the art equipment and educating public regarding appropriate driving during winter are the most important factors that will produce desired lower salt use. Dover has already implemented all of the proposed reduction strategies for its operations so projecting additional reductions is not beneficial as variability in annual weather will drive the use of salt.

Dover agrees that a private sector salt use accounting program will have educational value to independent contractors and property owners and produce positive benefits. However, the proposed changes in the permit place the burden on the MS4 community to initiate and enforce a program for private properties to reduce and track salt use. The effectiveness and enforcement of such a program has many obstacles both practical and political. EPA should encourage the State of NH to work with communities to augment wider participation in the existing salt reduction program for commercial salt applicators, rather than putting communities in a noncompliance position with limited ability to become compliant. A cooperative effort including EPA NHDES, and the communities to educate the public on the negative effects on surface and groundwater caused by salt, and how and when to use salt will achieve the needed reductions.

Sincerely,



J. Michael Joyal, Jr.  
City Manager